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EXAMINER

SCHULTZ, WILLIAM C

ART UNIT	PAPER NUMBER
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2664

DATE MAILED: 05/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/635,800

Applicant(s)

BOLLING, ANTHONY CRAIG

Examiner

William C. Schultz

Art Unit

2664

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ____ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 March 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-13 and 15-20 is/are rejected.
- 7) ☒ Claim(s) 4, 14 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1-3,7-13,17-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Dail et al. [U.S. Pat. 5,570,355].

Regarding claim 1, Dail et al. discloses a method of provisioning distribution channels in a communications network, comprising:

providing a subscriber accessible provisioning terminal for a subscriber site at which a plurality of distribution channels are allocated to a plurality of drop-points; **(fig. 1 parts 105,107,109; col. 7, lines 3-6, 8-11)**

receiving a subscriber provisioning selection via said subscriber accessible provisioning terminal; and **(col. 8, lines 15-17; col. 8, lines 58-61; col. 8, line 66 – col. 9, line 6)**

selectively changing an allocation of distribution channels for said plurality of drop-points in accordance with said subscriber provisioning selection. **(col. 16, lines 44-56 – allocation of time slots is allocation of distribution channels; col. 17, lines 48-59 – discloses the details of changing the allocations to terminals)**

Regarding claim 2, Dail et al. further discloses transmitting said subscriber provisioning selection to a remote provisioning control site. **(fig. 1, part 107, part 109;**

col. 16, lines 34-45 – discloses that a message is sent from 107 to 109 which from fig. 1, 109 looks to be remote)

Regarding claim 3, Dail et al. further discloses said remote provisioning control site determines whether said subscriber provisioning selection is acceptable, **(col. 17, lines 25-32)** sends an acknowledgement to said provisioning terminal when said subscriber provisioning selection is acceptable, **(col. 17, lines 32-49; col. 9, lines 43 – 55 – discloses the message contents that are possible in the ack message)** and sends an error signal when said subscriber provisioning selection is not acceptable. **(col. 9, lines 51-55 – discloses a condition/status of allocation as busy/final; col. 17, lines 46-47 – discloses a negative for BW allocation so the call is rejected; The applicant's spec on pg 9, lines 9-11 do not disclose sending an error signal, instead the spec discloses sending a notification. In light of this disclosure from the applicant, Dail et al. exactly discloses this functionality)**

Regarding claim 7, Dail et al. further discloses said plurality of distribution channels are provided by a high-bandwidth transmission line. **(col. 8, lines 15-30 – discloses 750 Mhz of BW which is connecting parts 107 and 109 in fig. 1)**

Regarding claim 8, Dail et al. further discloses said high-bandwidth transmission line is a T1 line, and said plurality of distribution channels are time-division multiplexed on said T1 line. **(col. 8, lines 15-30 – discloses on line 25 of the digital channels being capable of carrying 1.6Mb/s is a T1; col. 16, lines 44- 56 – having time slots means being on a TDM line)**

Regarding claim 9, Dail et al. further discloses said subscriber site is a distant terminal in a digital loop carrier system. **(parts 107, subscriber, and 109 in fig. 1 are in a DLC as defined by Federal Standard 1037C submitted as evidence on the PTO-892)**

Regarding claim 10, Dail et al. further discloses said remote provisioning control site is a remote terminal in a digital loop carrier system. **(parts 107 and 109, provisioning control, in fig. 1 are in a DLC as defined by Federal Standard 1037C submitted as evidence on the PTO-892; fig. 1, 109 looks to be remote to 107)**

Regarding claim 11, Dail et al. discloses an apparatus for provisioning distribution channels in a communications network, comprising:

means for receiving a subscriber provisioning selection via a subscriber accessible provisioning terminal of a subscriber site where a plurality of distribution channels are allocated to a plurality of droppoints; and **(col. 8, lines 15-17; col. 8, lines 58-61; col. 8, line 66 – col. 9, line 6)**

means for selectively changing an allocation of distribution channels for said plurality of drop-points in accordance with said subscriber provisioning selection. **(col .16, lines 44- 56 – allocation of time slots is allocation of distribution channels; col. 17, lines 48-59 – discloses the details of changing the allocations to terminals)**

Regarding claim 12, Dail et al. further discloses means for transmitting said subscriber provisioning selection to a remote provisioning control site. **(fig. 1, part 107,**

part 109; col. 16, lines 34-45 – discloses that a message is sent from 107 to 109 which from fig. 1, 109 looks to be remote)

Regarding claim 13, Dail et al. further discloses said remote provisioning control site determines whether said subscriber provisioning selection is acceptable, **(col. 17, lines 25-32)** sends an acknowledgement to said provisioning terminal when said subscriber provisioning selection is acceptable, **(col. 17, lines 32-49; col. 9, lines 43 – 55 – discloses the message contents that are possible in the ack message)** and sends an error signal when said subscriber provisioning selection is not acceptable. **(col. 9, lines 51-55 – discloses a condition/status of allocation as busy/final; col. 17, lines 46-47 – discloses a negative for BW allocation so the call is rejected; The applicant's spec on pg 9, lines 9-11 do not disclose sending an error signal, instead the spec discloses sending a notification. In light of this disclosure from the applicant, Dail et al. exactly discloses this functionality)**

Regarding claim 17, Dail et al. further discloses said plurality of distribution channels are provided by a high-bandwidth transmission line. **(col. 8, lines 15-30 – discloses 750 Mhz of BW which is connecting parts 107 and 109 in fig. 1)**

Regarding claim 18, Dail et al. further discloses said high-bandwidth transmission line is a T1 line, and said plurality of distribution channels are time-division multiplexed on said T1 line. **(col. 8, lines 15-30 – discloses on line 25 of the digital channels being capable of carrying 1.6Mb/s to 10Mb/s, T1 runs at 1.544Mb/s; col. 16, lines 44- 56 – having time slots means being on a TDM line; Since disclosed is**

allocating time slots with digital channels running at 1.6 Mb/s inherently that digital channel must be a T1 channel)

Regarding claim 19, Dail et al. further discloses said subscriber site is a distant terminal in a digital loop carrier system. **(parts 107, subscriber, and 109 in fig. 1 are in a DLC as defined by Federal Standard 1037C submitted as evidence on the PTO-892)**

Regarding claim 20, Dail et al. further discloses said remote provisioning control site is a remote terminal in a digital loop carrier system. **(parts 107 and 109, provisioning control, in fig. 1 are in a DLC as defined by Federal Standard 1037C submitted as evidence on the PTO-892; fig. 1, 109 looks to be remote to 107)**

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 5,15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dail et al. [U.S. Pat. 5,570,355] as applied to claims 1,11 above, and further in view of Daniel et al. [U.S. Pat. 5,724,659].

Regarding claims 5,15, Dail et al. discloses as above for claims 1 and 11 but fails to disclose confirming subscriber authorization for changing an allocation of distribution channels.

Dail et al. is concerned with the ability of delivering to subscribers a mix a services like video on demand or data or video telephony and recognizes the need to allow the subscriber to dynamically allocate BW to new service requirements.

Daniel et al. is a communications system concerned with the same thing, that is provides multiple services to the subscriber that might require BW allocations to change for the subscriber. Daniel et al. also discloses confirming subscriber authorization for changing an allocation of distribution channels.**(col. 4, lines 31-36)**

It would have been obvious for one skilled in the art at the time of invention to check and see if enhanced service delivery was available for the subscriber before allowing the subscriber to modify their BW requirements because resources would have been wasted. **(col. 4, lines 18-20)**

3. Claims 6,16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dail et al. [U.S. Pat. 5,570,355] as applied to claims 1,11 above, and further in view of Applicant Admitted Prior Art.

Regarding claims 6,16, Dail et al. discloses that the distribution channels are TDM but fails to disclose that the allocation step changes cross connections of a time slot interchange unit.

Applicant discloses on page 2, lines 17-28 that the TDM channels from the telephone company are allocated by setting the cross-connections of TSI units.

It would have been obvious for one skilled in the art at the time of invention to modify Dail et al. with the AAPA. The motivation to make the network switching unit a

TSI is that telephone companies already have these in place so it saves the company money.

Allowable Subject Matter

Claims 4,14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments filed 3/3/2004 have been fully considered but they are not persuasive.

1) “Dail does not disclose selectively changing an allocation of distribution channels ... in accordance with subscriber provisioning selection”.

Col. 8, line 65 to Col. 9, line 19 discloses a subscriber sending a call setup message which indicates a requested provisioning selection FROM the subscriber. The head decides what is available and gives what resources it can. This is clearly encompassing the scope of the independent claims, hence a 102 rejection is proper. Because the independent claims are properly rejected, the 103 rejections stand. The Examiner notes that no specific response to the 103 rejections were made, just a statement that they were made more or less invalid via arguments pertaining to the 102 rejections of the independent claims, this clearly is not a response to the prima facie case of obviousness for the rejection of claims 5,6,15,16.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William C. Schultz whose telephone number is 703-305-2367. The examiner can normally be reached on M-F(7-4)(first bi-week) M-Th(7-4)(second bi-week).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wellington Chin can be reached on 703-305-4366. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

William Schultz



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